

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT CAMPBELL #485906,

Plaintiff,

v.

Case No. 2:07-CV-77

MICHAEL ENGELSGJERD, et al.,

HON. GORDON J. QUIST

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has before it Plaintiff's Objection to the report and recommendation dated August 29, 2008. In his report and recommendation, Magistrate Judge Greeley recommended that the Court deny Defendant Engelsjerd's motion to dismiss on the ground that Plaintiff failed to exhaust his administrative remedies but grant the motion on the basis that Plaintiff has failed to state a claim for violation of his Eighth Amendment rights. With regard to his recommended basis for dismissal, the magistrate judge concluded that Plaintiff failed to allege a complete denial of medical treatment. Rather, citing the grievance response forms attached to Plaintiff's amended complaint, the magistrate judge observed that Plaintiff's claim concerns the adequacy of the treatment he received for his ingrown toenails – a disagreement regarding the treatment he received.

After conducting a *de novo* review of the report and recommendation, the Court concludes that the report and recommendation should be adopted.

In his Objection, Plaintiff again contends that Defendants have demonstrated deliberate indifference to Plaintiff's serious medical needs by refusing to treat his painful condition and

refusing his requests to see an outside doctor at his own expense. However, as the magistrate judge stated, Defendants provided, and continue to provide, medical treatment to Plaintiff for his condition. That Plaintiff disagrees with the course treatment or has experienced some pain from his condition is insufficient to support an Eighth Amendment claim. Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation issued August 29, 2008 (docket no. 65) is **APPROVED AND ADOPTED** as the Opinion of this Court.

IT IS FURTHER ORDERED that Defendant Engelsjerd's Motion to Dismiss Plaintiff's Complaint (docket no. 31) is **GRANTED** for the reason that Plaintiff's complaint fails to state a claim.

IT IS FURTHER ORDERED that Plaintiff's pending motions (docket nos. 30 and 35) are **DISMISSED AS MOOT**.

IT IS FURTHER ORDERED that Plaintiff's complaint is **dismissed with prejudice**.

Dated: September 24, 2008

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE